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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

\+ CRL.REV.P. 112/2006

MAST. DHARAMBIR SINGH ..... Petitioner
Through Mr. Rabindra Singh with Mr. Harinder Chowdhary

versus

THE STATE, NCT OF DELHI ..... Respondent
Through Mr. Pawan Sharma, APP for State

CORAM:
Mr. Justice S. Ravindra Bhat

1. Whether reporters of local papers may be allowed to see the judgment.?
2. To be referred to the Reporter or not?
3. Whether the judgment should be reported in the Digest?

<u>Mr. Justice S. Ravindra Bhat</u> (Open Court)

1. This revision is directed against an order of the Additional Sessions Judge by which he confirmed the order of the Juvenile Justice Board, declining the bail. The petitioner along with co-accused was charged with committing offences under Sections 363/377/302/201/120B/34 IPC. The incident in this case occurred on 07.10.05 and FIR was lodged a day thereafter.

2. The relevant part of the order of the Juvenile Justice Board, made after

consideration of the SIR (Social Investigation Report) at that time reads as follows:

> *" As per the SIR of the juvenile Dharamveer, bad company, influence of mis-guided accomplice and lure for money are the suggested cause of the problem. Neighbours have given negative report about the juvenile, as well as, family. Juvenile is manipulative and extrovert.*
>
> *As per the SIR of the juvenile of the juvenile Sunil, lack of proper reasoning, lack of maturity are the suggested cause of the problem.*
>
> *I have carefully considered the arguments put forth by the learned defence counsels for the juvenile and perused the record.*
>
> *Role of the juvenile Dharamveer appears to be that of the main offender. The fact of delay, if any, in recording the statement of witness Pradeep shall be seen at the time of final stage. For the present purposes statement of the witness Pradeep who saw both the juvenile alongwith third adult accused Anil lastly in the company of the deceased child cannot be ignored. Besides the statement of this witnesses, there is recovery of dead body on the pointing of both the juvenile along with third adult offender Anil. The motive is clear in the disclosure statement of the juveniles. The dead body was in decomposed condition when it was recovered and so some of the forensic reports are still awaited.*
>
> *In these facts and circumstances of the matter it would not be in the interest of justice to admit the juveniles to bail. The bail application of both the juveniles, namely, Dharamveer and Sunil are rejected. Copy of the order be given dasti.*
>
> *Put up on the date fixed i.e. 07.01.06."*

3. During the course of these proceedings, on 28.02.06 this Court had enlarged the petitioner/juvenile on interim Bail to enable him to prepare and appear in examinations. That order was continued on 03.03.06 and thereafter continued till date. Further to the directions of this Court, two fresh Social Investigation Reports were made on 22.03.06, and recently on 17.04.07. Both were placed on the file of this Court.

4. I have considered the Social Investigation Report. Both the reports have suggested the cause of problem and analysed the case concerned. The previous

report had recommended that the petitioner needs supervision and counselling to be more aware of societal values. It noticed that the family is deeply concerned and that the problem should be understood in the proper family environmental changes. The report had recommended on 22.03.06 that opportunity should be given to the family and juvenile to regenerate good family values for positive personality development.

5. It has now transpired that the petitioner's family, including him have shifted from the immediate vicinity of the neighourhood where the victim's relatives reside, apparently on accounts of threats by them. The latest SIR records as follows:

> *"parents stated that due to fear of life they had shifted their residence from Begum Pur village to Chirag Delhi and as soon as maintenance work will finish at Aram Bagh, they will shift to their allotted quarter at Aram Bagh, New Delhi. Parents also promised to take full responsibility of J/B and also stated that they will keep a strict vigil on J/B. At present juvenile is pursuing his studies & have his future career ahead and at present is appearing for class Xth examination from NIOS."*

6. The fresh SIR also reiterated strong family concern, and the commitment to counsel the petitioner juvenile.

7. The learned counsel for the State in this present case, opposed the grant of bail on the ground that the alleged act said to have been committed by the juvenile along with the co-accused was one of great moral degradation and the act in itself would demonstrate the perversity of the mind of the juvenile. In any event, the nature of the offence is not one of the conditions on which bail can be granted or refused to the juvenile. Bail in respect of a juvenile has to be considered purely under the parameters of Section 12 of the said Act which

requires bail to be granted mandatorily unless the Court feels that the release of the juvenile is likely to bring him in the association of any known criminal or expose him to moral, physical or psychological danger or that his release would defeat the ends of justice.

8. The definition of a delinquent juvenile means a juvenile who has been found to have committed an offence. Section 12 of the Act deals with right of bail to the juvenile. Sub-Section (1) thereof provides that, when any personal accused of a bailable or non-bailable offence, and apparently juvenile, is arrested or detained or appears or is brought before a Board, such person shall, notwithstanding anything contained in the Code of Criminal Procedure, 1973 or in any other law for the time being in force, be released on bail with or without surety but he shall not be so released if there appear reasonable grounds for believing that the release is likely to bring him into association with any known criminal or expose him to moral, physical or psychological danger or that his release would defeat the ends of justice. Sub-section (3) provides that when such person is not released on bail under sub-section (1) by the Board it shall, instead of committing him to prison, make an order sending him to an observation home or a place of safety for such period during the pendency of the inquiry regarding him as may be specified in the order.

Section 12 makes it mandatory for a juvenile, even if he is "apparently a juvenile" to be released on bail, then this Court and all the Courts dealing with such a situation must give full meaning to the provisions of the said Section as also the object of the Act. Bail has to be granted to a juvenile, notwithstanding

anything contained in the Code of Criminal Procedure, 1973 or any other law for the time being in force. The idea behind Section 12 being that the juvenile must be released on bail unless releasing him on bail would be detrimental to him or would entirely defeat the ends of justice. (Refer *Prakash -v- State of Rajasthan 2006 (112) Crl. LJ 1373; Vijendra Kumar Mali -v- State 2003 (109) Crl. LJ 4612; Vicky Vikram Singh v- State 2003 (112) Crl. LJ 1892).*

9. The anguish of near and dear ones of the victim is understandable. Ye the underlying social objective of reformation and rehabilitation of juveniles in conflict, cannot be defeated. The initial assessment of the Board, on the basis of the existing materials, was unfavourable to the juvenile. During these proceedings, he was enlarged on interim bail, to pursue his studies. The two subsequent SIRs are favourable to him. There also appears to be strong family concern and support for him. An overview of these circumstances do not show the juvenile's propensity to indulge in anything objectionable, or that his continued liberty would expose him to physical or psychological danger, or that his release would lead to association with any known criminal.

10. The revision petition No. 112/06 is accordingly allowed. The petitioner's bail is hereby confirmed. In addition to the conditions imposed, he shall also report to the Board once every fortnight in addition to the dates when he is required for enquiry/trial.

Order Dasti.

S.RAVINDRA BHAT, J

MAY 15, 2007

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